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OFFICE OF PETITIONS

In re Application of
Robert C. Meier
Application No. 10/762,746
Filed: January 22, 2004
Attorney Docket No. 14420US02

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)¹ must be accompanied by: (1) the required reply,² unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

¹ As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

² In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The application went abandoned for failure to timely pay the issue fee and publication fee on or before the due date of May 30, 2006. The filing of an RCE and submission is not a relief for paying the issue fee since the application went abandoned. Also, the RCE and submission was not filed prior to or on the due date for paying the issue fee. Therefore, the issue fee payment is require.

Petitioner is advised that **upon payment** of the issue fee, the issue fee cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Further correspondence with respect to this matter should be addressed as follows:


By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
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By hand: Customer Window located at:

 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.


Karen Creasy
Petitions Examiner
Office of Petitions